

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JOSE LUIS LOPEZ,

Plaintiff,

v.

US BANK NATIONAL ASSOCIATION;  
et al.,

Defendants.

3:11-cv-0771-LRH-VPC

ORDER

Before the court is defendant LSI Title Agency, Inc.'s ("LSI") motion to dismiss. Doc. #5.<sup>1</sup> Plaintiff Jose Luiz Lopez filed an opposition (Doc. #13) to which LSI replied (Doc. #12).

**I. Facts and Procedural History**

In December, 2006, Lopez purchased real property through a mortgage note and deed of trust originated by defendant Equifirst Corporation ("Equifirst"). Eventually, Lopez defaulted on the mortgage note and defendants initiated non-judicial foreclosure proceedings.

Subsequently, Lopez filed a complaint in state court against defendants alleging three causes of action: (1) wrongful foreclosure; (2) declaratory relief; and (3) injunctive relief. Doc. #1, Exhibit 2. Thereafter, LSI filed the present motion to dismiss. Doc. #5.

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<sup>1</sup> Refers to the court's docket entry number.

1 **II. Discussion**

2 In its motion, LSI argues that plaintiff Lopez does not have standing to bring the present  
3 action because prior to filing the complaint, he filed for bankruptcy. *See* Doc. #5. The court agrees.

4 On July 29, 2011, Lopez initiated a chapter 7 bankruptcy action that is still ongoing. Once a  
5 bankruptcy action is initiated, only the chapter 7 trustee is authorized to take action on behalf of  
6 property in the bankruptcy estate. 11 U.S.C. § 704(a). Here, it is undisputed that the underlying  
7 property became property of the bankruptcy estate upon the filing of the bankruptcy petition.  
8 Therefore, the court finds that Lopez is without standing to bring the present wrongful foreclosure  
9 action. Accordingly, the court shall grant LSI's motion to dismiss.

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11 IT IS THEREFORE ORDERED that defendant's motion to dismiss (Doc. #5) is  
12 GRANTED. Plaintiff's complaint (Doc. #1, Exhibit 2) is DISMISSED in its entirety.

13 IT IS SO ORDERED.

14 DATED this 3rd day of January, 2012.



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17 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE  
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